

Today I am now asking this honorable court to dismiss the entire case brought by plaintiff Howard Katz vs. All That Glitters /Joe R. Mogus, Cv06-05474. I am asking this as new information has come to light, today, 6/21/06.

Today, during a phone conversation involving myself, Magistrate Judge Orenstein, and plaintiff's attorney Mr. Shmuel Klein, Mr. Klein disclosed that, (exhibit enclosed) the statement regarding the defendant's residence was in fact in error, a typographical error, he said, I quote "a typo" As made clear to this court previously the defendant, All That Glitters /Joe R Mogus has not lived, worked, held a business license, owned property, or even been in New York State in many years, this also absolutely clear to Mr. Klein, in that his office has addressed numerous correspondence, and a summons and none to a New York address. I would think his "typo" would have become glaringly obvious and it was then incumbent upon him to notify this court of his error before we ever reached this stage! At any rate accepting Mr. Klein at his word this being an error, (his confusing New York with West Virginia) I submit to the court that it was then also in error for any aspect of this case to be brought before this honorable court, Eastern District, New York the predicate of this venue now being an admitted error, consequently am now asking the entire case be dismissed. As the court is aware am a pro se defendant consequently not familiar with court protocol or law so I can only state this in plain English as I see it. The plaintiff will not be precluded from his just due, the case simply refiled in the appropriate venue and this time error free. Mr Klein now not mistaking residence. I thank the court for consideration in this issue and also for consideration in that am a pro se defendant.

Sincerely
Joe R Mogus
Joe R Mogus

P.S. I must add after reading, in that this "typo" is a serious error I think a full explanation regarding how it could have occurred and continued is due the court and myself!

Thank You
Joe Mags

Joe Mogus

federal court eastern district new york

re: 4/21/2006 11:21:31 PM

subject: howard katz vs joe robert mogus----- RESPONSE

6. I can not comment on the legal appropriateness of this , however i can say without doubt the amount owed to Katz by All that Glitter can be determined by the two of us sitting with a tape adding machine and the invoices in question . This could be resolved in one day , eight hours ----- I have offered in writing to meet Katz, to sit and resolve this , to meet in my home

or to meet in Harrisburgh Pa. , Baltimore Md. etc which are mutually convenient to both of us , to sit and resolve this .I will repeat , 8 hours with a tape adding machine is all that is needed . I do not deny an outstanding balance but frankly this situation does not require a jury and is ridiculous to say that it does , in my oppinion !

7. All that Glitters received jewelry items from Katz since 1985 !! contend that inspection is not an accurate term - ----- Katz sent it , then billed it , much jewelry was sold over the 20 yrs . Some items were specific, ordered items , some were simply items he sent hoping they could be sold . All that Glitters was his biggest account , as he told me!

8. This is essentially true , he received large checks , weekly for years !\$ 5000 to \$6000 per week wasnt unusual - ----- He did provide a large amount of jewelry , we kept a running balance .

* 9. This is untrue ! The figure of 151,000 I never heard before ! MR. H . KATZ NEVER SENT A BILL , NEVER !----- He woud send individual invoices ofcourse , these corresponded to individual weekly orders BUT HE NEVER WOULD SEND A COMPREHENSIVE BILLING STATEMENT !! I requested a bill . i even WROTE ASKING for a bill , i have copies of these requests , he never sent a bill! He would call from time to time and make verbal assertions as to an amount due him ,but refused to send a bill. Any bill he mite produce after this date is just that a production ! I challenge him to produce any comprehensive bill he has ever sent , THERE IS NONE! Furthermore , i wrote to him repeatedly asking for any supporting documentation , any to support the amounts he asserted! Time again i asked, in writing to see his copies of the numbers , he refused to send them , i got nothing ! He once said laughing ,that all his numbers were in the basement and it would quote"be a big hassle to get them " He laughed at me , never offered any proof , never sent a comprehensive bill and now brings suit in Federal Court ! Over the years we had a close working relationship but i have to say his continuing refusal to share his copies of the books etc made me more than a little suspicious and still do. ! No written bill , not yearly statements , nothing ! The last figure he gave to me verbally , was i believe \$139,000 owed to him , I then began sending him registered mail , insured packages ----- perhaps a dozen or more over the spring and summer of 2005 ----- these as always he was to inspect and issue a credit , items returned -----there were hundreds of gold items, i have all receipts . Among these items were diamond rings , emeralds , rubies , sapphires , topaz, etc . some were small only a gram or two , most were significantly heavier , some as heavy as 40 , even 50 grams or more , these items 14kt gold all of them. Gold at that time in excess of 500 per ounce! Mr Howard Katz never sent me any credit slip for these items , tens of thousands of dollars worth of jewelry. Most amazingly in fact using his numbers these items caused the balance owed to increase not decrease. Previously he stated a balance of 139,000 now he brings suit for 151,000 .I swear this is true , i swear it ! When i requested the credit slips during the summer of 2005 , he would defer and say he was away on vacation did not have invoice slips etc etc ----- he never did send any credit slips ! I have all postal receipts and comensurate documentation he did receive these packages , his signatures on file with postal service.!

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